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| EXAMINER |
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BAROT, BHARAT

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| ART UNIT | PAPER NUMBER |
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2155

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,988

Applicant(s)

SRINIVAS ET AL.

Examiner

Bharat N. Barot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

RESPONSE TO AMENDMENT

1. Claims 1-14 (PREVIOUSLY PRESENTED) and 15-20 (CURRENTLY PRESENTED) remain for further examination. Applicants' arguments with respect to claims 1-14 filed on March 08, 2005 have been fully considered.

The old rejection maintained

2. The rejection is respectfully maintained as set forth in the last Office Action mailed on December 08, 2004. Applicants' arguments with respect to claims 1-14 have been fully considered but they are deemed to be moot and old rejection maintained.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-15, 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Klassen et al (U.S. Patent No. 6,711,137). Klassen's patent meets all the limitations for claims 1-15 and 17-19 recited in the claimed invention.

5. As to claim 1, Klassen et al teach a computer-implemented method for automatically tuning a size of a TCP receive window (see abstract; column 7 lines 49-55; and column 8 lines 33-37) comprising: determining a bandwidth of a network connection (figure 1; and column 7 line 66 to column 8 line 2); and automatically tuning the size of the TCP receive window based on the determined bandwidth (figure 1; column 8 lines 7-19; column 13 lines 21-44; and column 19 lines 11-48).
6. As to claim 2, Klassen et al teach the steps of: obtaining at least one attribute of a network connection device; and determining the bandwidth of the network connection from the at least one obtained attribute (column 9 lines 47-59; and column 11 lines 22-64).
7. As to claim 3, Klassen et al teach the steps of: determining the size of the TCP receive window based on the determined bandwidth; and setting the size of the TCP receive window to the determined size bandwidth (column 3 lines 39-49; column 13 lines 21-44; and column 19 lines 11-48).
8. As to claim 4, Klassen et al teach a step of: accessing the size of the TCP receive window from a look-up table (database/storage) (column 6 lines 29-40; and column 8 line 60 to column 9 line 10).

9. As to claim 5, Klassen et al teach a step of: determining a speed of the network connection device or a name of the network connection device (column 7 lines 56-65; and column 8 line 60 to column 9 line 10).

10. As to claim 6, Klassen et al teach the steps of: monitoring the network connection to determine if the network connection has changed: and tuning the size of the TCP receive window if the network connection has changed (column 8 line 60 to column 9 line 10; column 13 lines 21-44; and column 15 lines 23-36).

11. As to claims 7-10, they are also rejected for the same reasons set forth to rejecting claims 1-4 and 6 above, since claims 7-10 are merely a computer readable medium having instructions for controlling the method of operations defined in the claims 1-4 and 6.

12. As to claims 11-14, they are also rejected for the same reasons set forth to rejecting claims 1-2 and 5-6 above, since claim 11-14 are merely an apparatus to performing the method of operations defined in the claims 1-2 and 5-6.

13. As to claims 15 and 19, claim 15 is rejected for the same reasons set forth to rejecting claims 3-4 above and claim 19 is merely an apparatus to performing the method of operations defined in the claim 15.

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14. As to claim 17, Klassen et al disclose that the at least one attribute is a name of a network connection device (column 9 lines 22-23).

15. As to claim 18, Klassen et al teach that sizing the TCP receive window based on a type of a network connection device (figures 3-4; and column 9 line 32 to column 10 line 16).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klassen et al (U.S. Patent No. 6,711,137) in view of Toporek et al (U.S. Patent No. 6,654,344).

18. As to claim 1, Klassen et al do not explicitly teach that determining a version of the operating environment executing on the processor / current operating system and setting the size of the TCP receive window based on the operating environment / operating system.

Toporek et al explicitly teach that determining a version of the operating environment executing on the processor / current operating system and setting the size of the TCP receive window based on the determined bandwidth and the operating environment / operating system (column 5 lines 21-40; column 6 lines 48-60; column 10 lines 32-46; and column 18 lines 7-28).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Toporek et al as stated above with the method and system of Klassen et al for automatically tuning a size of a TCP receive window because it would have minimized the system bottleneck and provided efficient way of managing the transmission of information in the network.

Response to Arguments

19. Applicant's arguments with respect to claims 1-43 filed on January 23, 2004 (Paper Number 08) have been fully considered but they are not deemed to be persuasive for the claims 1-43.

20. In the remarks, the applicant argues that:

(A) **Argument:** Klassen does discuss window size but does not teach “automatically tuning the size of the TCP receive window based on the determined bandwidth”.

Response: Klassen et al teach that automatically tuning the size of the TCP receive window based on the determined bandwidth (figure 1; column 8 lines 7-19; column 13 lines 21-44; and column 19 lines 11-48).

(B) **Argument:** Klassen does not teach “determining and setting the size of the TCP window”.

Response: Klassen et al teach that determining the size of the TCP receive window based on the determined bandwidth; and setting the size of the TCP receive window to the determined size bandwidth (column 3 lines 39-49; column 13 lines 21-44; and column 19 lines 11-48).

(C) **Argument:** Klassen does not teach “accessing the size of the TCP window from a look-up table”.

Response: Klassen et al teach that accessing the size of the TCP receive window from a look-up table (database/storage) (column 6 lines 29-40; and column 8 line 60 to column 9 line 10).

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21. This action is made final. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Contact Information

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (571) 272-3979. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached at (571) 272-4001.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

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June 01, 2005


BHARAT BAROT
PRIMARY EXAMINER